IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 505 OF 2004

IN

SUMMARY SUIT NO. 1599 OF 2004

Chemisol Adhesives P.Ltd .. Plaintiff

versus

M/s.Mahavir Electric Hardware Stores.. Defendant

...

Mr.A.J. Almeida for the plaintiff.

Mr.S.G. Dalal i/b Dalal & Co. for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 6th April 2005.

P.C.:

1. Heard the learned counsel for the parties.

2. This suit is filed by the plaintiff for recovery of the price of the goods sold supplied and delivered to the defendant.

3. According to the defendant, goods were

defective. The goods were meant for the purpose of water proofing treatment to roof of a house. Waterproofing was carried out but the roof still leaked.. This was intimated to the plaintiff. In the circumstances,, the defence raised by the defendant cannot be said to be sham or illusory. The facts would be required to be gone into at the stage of trial. In the circumstances triable issues arise in the suit.

4. The defendant is therefore granted unconditional leave to defend the suit. The suit shall stand transferred to the list of commercial causes. The defendant to file written statement within a period of eight weeks.

D.G. KARNIK, J